

STATE OF VERMONT  
PUBLIC SERVICE BOARD

**SPECIAL CONTRACT APPROVAL**

Re: S.C. #966

The contract for ELECTRIC service between **Town of Stowe Electric Department ("SED")** and **Trapp Family Lodge, Inc. ("TFL")** for the two-year period beginning with the first regular meter-reading date following Public Service Board ("Board") approval of the proposed contract, under the conditions set forth in the contract, is hereby approved, as provided by Title 30, Section 229 of the Vermont Statutes Annotated.

The TFL resort property is currently served under SED's Three Phase Demand Rate 26 ("Rate 26") via a single primary metering point. Pursuant to SED's tariff, Rate 26 is only available for non-residential uses. Beyond the primary metering point, electric service is distributed to various entities located on the resort property over a TFL-owned distribution system. SED sends TFL a single monthly bill based on the energy and demand recorded at the primary metering point, and TFL allocates the charges on that bill to the various entities on the resort property using submetering technology. One of these entities is The Villas at Trapp Family Lodge Owners Association, Inc., whose members own fee simple fractional or whole interests in units in the Trapp Family Lodge Villas (the "Villas"), a condominium created under the Vermont Uniform Common Interest Ownership Act. Currently, 21 units in 11 buildings have been completed. Permits have been issued for construction of a total of 40 units in 21 buildings. The units not yet constructed, if developed, may be sold as either fractional or wholly-owned interests.

Under the contract, the Villas units would be removed from Rate 26 and put under SED's Residential Rate 01. Because the Villas are connected to TFL's privately-owned distribution network, this will be accomplished through the use of submetering whereby SED would read monthly the demand and usage at the primary metering point as well as at a submeter that measures demand and usage at the Villas. SED will then subtract the usage and demand recorded on the Villas' submeter from that recorded at the primary meter and generate a reconciled bill for the Villas based on the submeter reading at Residential Rate 01, and for the remainder of TFL demand and usage at Rate 26. The parties are proposing this approach because

it avoids a potentially costly physical reconfiguration of TFL's distribution system to remove the Villas from TFL's system and place them on SED's system. The monthly bills will be sent by SED to TFL, which acts pursuant to contract as the Villas' managing agent. TFL will allocate the Villas' bill to the individual unit owners based on each owner's Allocated Interest as set forth in the Declaration of Condominium for the Villas at Trapp Family Lodge. TFL is not permitted to allocate charges to individual unit owners based on actual usage or any estimation thereof, nor is it allowed to apply any mark-up to the amounts due and owing to SED. The contract also requires TFL and the Villas to participate in relevant energy efficiency programs offered by Efficiency Vermont to the fullest extent possible, and SED will file a report on demand-side management activities at TFL and the Villas at any time a request for contract renewal is made.

On November 10, 2011, the Vermont Department of Public Service filed a letter with the Board stating that it had reviewed the terms of the proposed contract and recommended Board approval without investigation or hearing.

In our approvals of other special contracts, the Board has required that the utility demonstrate that the special contract customer is participating to the fullest extent possible in cost-effective energy efficiency programs. Such programs provide benefits both to the customer and to the utility system as a whole. Our approval of this special contract is again conditioned on a requirement that TFL and the Villas participate in the relevant energy efficiency programs offered by Efficiency Vermont to the fullest extent possible. Approval of this contract is also conditioned upon the requirement that SED, on behalf of TFL and the Villas, shall file a progress report on demand-side management ("DSM") activities at the time of any request for contract renewal which shall include (1) a description of individual DSM projects completed during each year, (2) an estimate of energy and demand savings for each project, (3) the dollar amount invested in each project, and (4) a description of DSM activities planned for the proposed contract period. In addition, all electric service purchased by TFL and the Villas shall be subject to the energy efficiency charge as approved by the Board, and as may be modified during the period of the contract. Our approval is also conditioned on TFL allocating the Villas' bill to the individual unit owners based on each owner's Allocated Interest as set forth in the Declaration of Condominium for the Villas at Trapp Family Lodge. TFL is not permitted to allocate charges to

individual unit owners based on actual usage or any estimation thereof, nor is it allowed to apply any mark-up to the amounts due and owing to SED. As a condition of this approval, SED and TFL also must file, no later than July 2, 2012, a status report detailing any progress they have made in reaching an alternate solution to the problem addressed by the contract, as well as a description of all problems encountered and customer complaints received concerning the service provided under this contract.

Our approval of this Special Contract reflects our overall judgment that, as conditioned, it meets the strictures of 30 V.S.A. § 229. Except as specifically conditioned, our approval should not be construed as approval or disapproval of any of the specific negotiated terms, or as a determination that those terms are, or are not, cost-effective for the contracting customer or otherwise in the contracting customer's best interest.

Lastly, SED and TFL should not conclude that our willingness to approve the proposed contract indicates that we would be willing to approve a future request seeking renewal of the contract, because our approval is based, in part, on the limited term of the proposed contract. We recognize that the proposed contract represents a compromise between the parties that resolves an ongoing disagreement about the applicability of Rate 26 to the Villas, that it places the Villas on SED's Residential Rate 01 without requiring a costly reconfiguration of TFL's distribution system, and that it allows a two-year period for TFL to seek potential resolution on a legislative basis. We conclude that the proposed contract represents a reasonable, temporary solution given the facts specific to this case. The proposed contract also expressly recognizes that if TFL constructs the remaining Villas units so that they are served in the same manner as the existing units, that TFL bears the sole financial risk associated with reconfiguring its distribution system if such reconfiguration is ultimately required, and that the cost of so doing may be increased if it constructs these unbuilt units without individual meters. TFL should keep this express term in mind as it proceeds with any future development.

SED shall provide a copy of this Board approval to the contracting customer within ten days of this Order.

DATED at Montpelier, Vermont, this 15<sup>th</sup> day of December, 2011.

<u>s/ James Volz</u>	)	
	)	PUBLIC SERVICE
	)	
<u>s/ David C. Coen</u>	)	BOARD
	)	
	)	OF VERMONT
<u>s/ John D. Burke</u>	)	

OFFICE OF THE CLERK

Filed: December 15, 2011

Attest: s/ Susan M. Hudson  
Clerk of the Board